
OLR Bill Analysis

sHB 5450

AN ACT CONCERNING ARTIFICIAL INTELLIGENCE, DECEPTIVE SYNTHETIC MEDIA AND ELECTIONS.

SUMMARY

This bill generally makes it a crime for a person to (1) distribute a communication with deceptive synthetic media or (2) enter into an agreement to distribute it. Specifically, the bill prohibits this if it takes place within 90 days before an election or primary and:

1. the person knows, or should reasonably know, it is deceptive synthetic media;
2. it is distributed without the depicted individual's consent; and
3. it is intended to injure a candidate or influence the election or primary results.

However, the bill exempts certain deceptive synthetic media that is distributed if it has a disclaimer as required by the bill. Further, news organizations and other similar entities may be exempt from criminal and civil liability if the distribution is part of bona fide news coverage on the deceptive communication.

The bill also allows the attorney general and certain people to bring a civil action against someone who violates the bill's provisions and subjects violators to criminal penalties ranging from a class C misdemeanor to a class D felony, depending on the circumstances.

EFFECTIVE DATE: July 1, 2024

DECEPTIVE SYNTHETIC MEDIA

Under the bill, "deceptive synthetic media" is any image, audio, or video of an individual, and any representation of his or her appearance,

speech, or conduct that is substantially derived from it, which (1) a reasonable person would believe depicts the individual's appearance, speech, or conduct when the individual did not do so, and (2) was generated, in whole or in part, by using artificial intelligence or other technology.

DISCLAIMER

Under the bill, deceptive synthetic media may be distributed lawfully within the 90-day period if it contains a disclaimer as required by the bill. The disclaimer varies depending on the type of media (i.e., image, audio, or video).

Image Disclaimer

Under the bill, the image must contain a disclaimer stating either "This communication contains an image that has been manipulated" or "This image has been manipulated," as applicable. Additionally, the disclaimer must:

1. appear in text clearly visible to and easily readable by the average viewer;
2. be in text at least the same size as the largest font used for any other text in the communication; and
3. contain a citation to the original source of the unedited or unmanipulated version of the image, if the media was generated by editing or manipulating an existing image.

Audio Disclaimer

The audio must contain a disclaimer stating, "This communication contains audio that has been manipulated." Additionally, the disclaimer must:

1. be read in a clearly spoken manner;
2. be in a pitch that can be heard by the average listener;
3. be read in the same language as the rest of the media as well as any other language the person would reasonably expect the

listener to speak or understand; and

4. contain a citation to the original source of the unedited or unmanipulated version of the audio, if the media was generated by editing or manipulating existing audio.

The disclaimer must be read at the beginning and end of the communication. If the communication is greater than one minute, it must be read during the audio at least every 30 seconds.

Video Disclaimer

The video must contain a disclaimer stating, "This communication contains video that has been manipulated." Additionally, the disclaimer must:

1. appear throughout the entire video in text clearly visible to and easily readable by the average viewer;
2. be in text at least the same size as the largest font used for any other text in the communication;
3. be in the same language as the rest of the media as well as any other language the person would reasonably expect the listener to speak or understand; and
4. contain a citation to the original source of the unedited or unmanipulated version of the video, if the media was generated by editing or manipulating existing video.

EXEMPT ENTITIES

The bill's provisions do not apply, under certain conditions, to a radio or television station, a website, or a regularly published newspaper, magazine, or online periodical of general circulation.

Radio or television stations (including broadcast, cable, and satellite) may broadcast deceptive synthetic media if it is part of a bona fide newscast, news interview, news documentary, or other on-the-spot coverage of bona fide news events.

The broadcast must either retain the disclaimer required by the bill or add one if the original communication did not contain one, except for on-the-spot coverage. Additionally, a broadcast must clearly state in its content that the communication contains deceptive synthetic media, except for on-the-spot coverage of a communication that the person does not have reason to believe contains deceptive synthetic media.

Websites or regular periodicals may publish this media if (1) it is part of their routine news coverage and commentary of general interest, (2) they retain the disclaimer required by the bill or add one if not present, and (3) they clearly state in their content that the communication contains deceptive synthetic media.

PENALTIES

Criminal

At a minimum, a violation can result in a class C misdemeanor, which carries a maximum penalty of incarceration of three months, a \$500 fine, or both. For violations committed with the intent to cause violence or bodily harm or distributed to an audience of more than 10,000 individuals, the penalty is increased to a class A misdemeanor (up to 364 days imprisonment, a fine of \$2,000, or both). The penalty may also be increased to a class D felony (up to five years imprisonment, a \$5,000 fine, or both) for a subsequent conviction within five years.

These criminal penalties are in addition to any injunctive or equitable relief or special damages pursued in a civil action.

Civil

The bill also allows (1) the attorney general, (2) an individual depicted in the deceptive media, or (3) a candidate injured or likely to be injured by the media's distribution to seek a permanent injunction or other equitable relief against a person violating, or that will imminently violate, the bill. The plaintiff must prove their claim by clear and convincing evidence.

Plaintiffs, other than the attorney general, may seek general or special damages due to the distribution and must be awarded attorney's fees

and costs if they prevail, to be taxed by the court.

BACKGROUND

Related Bill

sSB 2, favorably reported by the General Law Committee, establishes various provisions regulating artificial intelligence, including similar provisions on the use of deceptive media during elections.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 2 (03/22/2024)